

Remarks

Claims 166-185 currently stand rejected and remain pending in the application. Claims 1-165 were previously canceled. No claims are amended herein. The Applicant respectfully traverses the rejection and requests allowance of claims 166-185.

Rejection Under 35 U.S.C. § 103

Claims 166-185 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0038624 to Greenberg et al. (hereinafter “Greenberg III”) in view of U.S. Patent No. 6,744,761 to Neumann et al. (hereinafter “Neumann”). (Page 2 of the final Office action.) The Applicant respectfully traverses the rejection in light of the following discussion.

With respect to claims 166 and 176, the final Office action indicates that Greenberg teaches receiving a voice call from a user device *including the cookie*, specifically citing paragraphs [0076], [0083], [0125], and [0127]. (Page 2 of the final Office action.)

However, Greenberg III (U.S. Patent App. No. 09/771,993, now U.S. Patent No. 6,707,811) was filed on January 30, 2001, as a continuation-in-part of U.S. Patent App. No. 09/637,805, now U.S. Patent No. 6,791,974, filed on August 11, 2000 (hereinafter “Greenberg II”), which itself is a continuation-in-part of U.S. Patent App. No. 09/272,139, filed on March 19, 1999, abandoned (hereinafter “Greenberg I”). The Applicant respectfully notes that Greenberg II and Greenberg III were filed *after* the filing date of the present application (January 5, 2000). Thus, since only Greenberg I possesses a filing date predating the filing date of the present application, the Applicant respectfully asserts that any disclosure in Greenberg II and Greenberg III not disclosed in Greenberg I is not available as prior art to reject the claims of the present application. (Please see MPEP § 2136.03(IV).)

Previously, in the most recent response of July 14, 2008, the Applicant noted that the patent resulting from Greenberg II (U.S. Patent No. 6,791,974) contains only a portion of the subject matter specifically cited in the rejection of claims 166 and 176. More specifically, the first two paragraphs cited in the Office action ([0076] and [0083]) are not present in Greenberg II (and, presumably, Greenberg I), since those paragraphs in

Greenberg III describe Figs. 12 and 14, while Greenberg II only includes Figures 1-9. However, the Applicant also indicated therein that paragraphs [0125] and [0127] of Greenberg III appear to be present in Greenberg II, but that it remained unknown as to whether those paragraphs were present in the original Greenberg I.

In reply, the final Office action indicates that “[i]t’s the burden of the Applicant to show that Greenberg I does not disclose the cited portions of Greenberg III.” (Page 9 of the final Office action.) Accordingly, the Applicant has ordered a copy of Greenberg I, which is appended to this response for the convenience of the Examiner. The Applicant respectfully notes that none of the subject matter of paragraphs [0076], [0083], [0125], and [0127] of Greenberg III are present in Greenberg I. More specifically, Greenberg I (i.e., the only application of Greenberg I, II, and III whose filing date predates that of the present application) does not mention cookies at all, much less how the cookies may be employed in connection with a voice call.

Thus, in light of the foregoing, the Applicant respectfully contends that the portions of Greenberg III available as prior art under 102(e)/103(a) do not teach or suggest receiving a voice call from a user device including the cookie, as set forth in claims 166 and 176, and such indication is respectfully requested. As a result, the Applicant respectfully contends that claims 166 and 176 are allowable in view of the combination of Greenberg III and Neumann, and such indication is respectfully requested.

Claims 167-175 depend from independent claim 166, and claims 177-185 depend from independent claim 176, thus incorporating the provisions of their respective independent claims. Thus, the Applicant asserts that claims 167-175 and 177-185 are allowable for at least the reasons provided above in support of claims 166 and 176, and such indication is respectfully requested.

Thus, based on the foregoing, the Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of claims 166-185.

Conclusion

Based on the above remarks, the Applicant submits that claims 166-185 are allowable. Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Applicant thus respectfully requests allowance of claims 166-185.

The Applicant believes no fees are due with respect to this filing. However, should the Office determine fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765 accordingly.

Respectfully submitted,

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/Kyle J. Way/

SIGNATURE OF PRACTITIONER

Kyle J. Way, Reg. No. 45,549
Setter Roche LLP
Telephone: (720) 562-2280
E-mail: kyle@setterroche.com

Correspondence address:

CUSTOMER NO. 28004

Attn: Steven J. Funk
Sprint
6391 Sprint Parkway
Mailstop: KSOPHT0101-Z2100
Overland Park, KS 66251-2100